

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

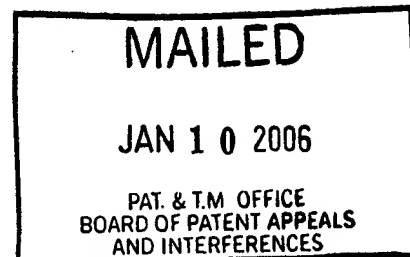
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HONG BAE PARK

Appeal No. 2006-0069
Application 09/894,903

ON BRIEF



Before THOMAS, KRASS, and BARRETT, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the Board from the examiner's final rejection of claims 1 through 16.

Independent claim 1 is reproduced below:

1. A flat luminescent lamp comprising:

first and second substrates having a plurality of grooves formed therein and attached to each other at a plurality of adhesive portions;

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a plurality of discharge spaces in the grooves between the first and second substrates;

first and second electrodes arranged in the discharge spaces to be separated from each other;

first and second phosphor layers formed in the discharge spaces; and

first and second frames sealing the first and second substrates.

The following references are relied on by the examiner:

Fukushima et al. (Fukushima)	3,873,870	Mar. 25, 1975
Yamano et al. (Yamano)	4,767,965	Aug. 30, 1988
Yamamoto et al. (Yamamoto)	5,341,231	Aug. 23, 1994
Lynn et al. (Lynn) (PCT)	WO 92-02947 A1	Feb. 20, 1992
Kure (Japanese Kokai)	JP 08-162069	Jun. 21, 1996

Claims 1, 3, 4, 8, 9 and 11 through 15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lynn. This reference is utilized in combination with various other references to reject the other claims on appeal under 35 U.S.C. § 103. As evidence of obviousness as to claim 2, the examiner combines Lynn and Yamano; as to claims 5 through 7, the examiner relies upon Lynn in view of Kure; as to claim 10, the examiner relies upon Lynn in view of Fukushima, and as to claim 16, the examiner relies upon Lynn in view Yamamoto.

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Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and reply brief for the appellant's positions, and to the final rejection and answer for the examiner's positions.

OPINION

Except for our reversal of the rejection of dependent claim 11 on appeal, we sustain the separate rejections of all other claims on appeal.

According to the grouping and arguments presented beginning at page 4 of the principal brief on appeal, appellant argues independent claim 1 and dependent claims 11 and 15. As noted at page 2 of the reply brief, however, appellant groups the subject matter of dependent claim 15 along with the subject matter of independent claim 1. Therefore, appellant presents arguments only as to independent claim 1 and dependent claim 11 in the brief and reply brief for our consideration.

For the reasons initially set forth by the examiner in the final rejection, we sustain the rejection of independent claim 1 under 35 U.S.C. § 102 as being anticipated by Lynn. What is actually argued between the examiner and appellant in the brief

and reply brief as well as the final rejection and answer is the feature at the end of claim 1 on appeal of "first and second frames sealing the first and second substrates."¹

The examiner considers the electrode substrates 155 and 156 in the Figure 7 showing of Lynn as corresponding to the claimed frame structure. The focus of appellant's argument in the principal brief is found at page 6 where appellant urges that the substrate areas of Lynn "are not frames or open structures that seal, encase, hold or border the glass plates (132 and 134)." Appellant goes on to explain that the substrates 155 and 156 in Figure 7 of Lynn "are planar elements being sandwiched between the glass plates (132 and 134) and held by the glass frit seal along the peripheral of the glass plates (132 and 134)."

¹The brief and reply brief make reference to other features of independent claim 1 on appeal relating to first and second substrates having a plurality of grooves formed therein and attached to each of the plurality of adhesive portions as well as the first and second electrodes arranged in the discharge spaces but present no specific arguments as to these features.

In agreeing with the examiner's position at page 4 of the answer, we note the examiner's observation that the claim does not set forth a particular structural shape for the framed elements. Additionally, we agree with the examiner's view that "the electrode substrates (155 and 156) taught by Lynn can be construed as frames [sic] structures, since while providing a support for the electrodes they at least border and form part of the sealing arrangement between the upper and lower glass plates (155 and 156) along the peripheral sides of the glass plates regardless of their shape and structure." We agree with these views in part because the claim does not distinguish in any manner over the positions presented and the teachings shown and argued by the examiner and Lynn.

Appellant is correct that the showings in Figures 7 and 8 and the corresponding discussion in the paragraph at the top of page 11 of Lynn's publication does indicate that the edges are sealed about their periphery. This is verified in accordance with the paragraph bridging pages 11 and 12 of Lynn's disclosure further indicating that a glass frit is glazed in the peripheral spacing to seal the edges of the glass envelope. According to the positions set forth by appellant in the brief and reply brief, the arguments appear to argue that the claimed first and

second frames per se actually perform a sealing operation of the first and second substrates. On the contrary, it is stated at appellant's own specification in paragraph 61, lines 3 through 5, that "a phosphor gas, such as Xe gas, is injected between them through a gas injection hole (not shown), and the substrates 31 and 31a are sealed through first and second frames (not shown) using a solder means such as a glass solder." Thus, as disclosed, both appellant's approach and that of Lynn appear to correspond. Thus, we find appellant's arguments as to this issue at pages 2 through 4 of the reply brief unpersuasive of patentability.

On the other hand, we agree with appellant's urgings in the brief and reply brief as to the subject matter of claim 11 which recites that the claimed first and second electrodes of independent claim 1 on appeal "are formed along the discharge spaces." As best explained by appellant at pages 4 and 5 of the reply brief, "as shown in Fig. 7 of Lynn et al., the electrodes (154) are at the ends of the cavities (150, 152), not along the elongate cavities (150, 152)." The showing in figure 7 of Lynn indicates that the electrodes 154 shown in this figure correspond to the discharge electrodes 36, 38 in Figure 1 of Lynn.

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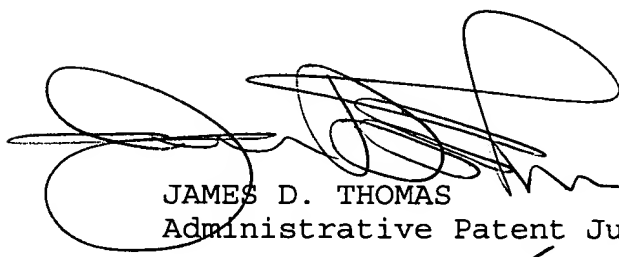


Corresponding in leads 44, 46 in Figure 1 perform a connection to an electrical alternating current source external to the device. It is clear that the electrodes do not extend along the length of the illustrated cavity areas in any figure of Lynn. Therefore, we reverse the rejection of claim 11 under 35 U.S.C. § 102.

In closing, we have sustained the rejection of independent claim 1 and dependent claims 3, 4, 8, 9 and 12 through 15 as being anticipated by Lynn under 35 U.S.C. § 102. We have also sustained the separate rejections under 35 U.S.C. § 103 of the remaining dependent claims 2, 5 through 7, 10 and 16 since no arguments have been presented in the brief and reply brief as to urge their patentability. We have reversed the rejection of dependent claim 11. Therefore, the decision of the examiner is affirmed-in-part.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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JAMES D. THOMAS)	
Administrative Patent Judge)	
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ERROL A. KRASS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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LEE E. BARRETT)	
Administrative Patent Judge)	

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Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue NW
Washington, DC 20004